IN THE HIGH COURT OF JHARKHAND, RANCHI

I.A. No.749 of 2005

IN

C.M.P. No. 120 of 2005

Roja Orain, wife of Philip Oraon and daughter of Late Cheto Oraon resident of village Bandih Paraltoli Police Station, Palkot, District -Gumla & Ors.

…….*Appellant/Respondent/ Defendant No.1 and 2/petitioners.*

-- Versus –

Elias Oraon, son of Late Bokha Oraon & Others.

…....Respondents/ Defendants/Opposite Parties.

CORAM :- HON'BLE MR. JUSTICE P.P. BHATT

For the Appellant :- Mr. A.K. Chaturvedi, Advocate
For the Respondents :- Mr. Amar Kumar Sinha, Advocate

I.A. No.749 of 2005

15*/* ***05.02.2015*** The present application is filed under Section 5 of the Limitation Act for condonation of delay of about 76 days in filing the restoration petition for restoration of Second Appeal No.137 of 1998(R).

Heard learned counsel for the appellant-applicant as well as learned counsel for the respondents. Perused the application as well as supplementary affidavit filed by the appellant-applicant.

For the reasons stated in the application, it appears that sufficient cause has been made out, which prevented the appellant-applicant to file the C.M.P. for restoration within the stipulated time.

Hence, for the reasons stated in the application as well as Supplementary Affidavit, the same is allowed and the delay in filing of C.M.P. is hereby ordered to be condoned.

I.A. No.749 of 2005 stands disposed of.

C.M.P. No.120 of 2005 In S.A. No.137 of 1998.

The present application is filed under Order 41 Rule 19 of the Code of Civil Procedure for restoration of the Second Appeal which has been dismissed for default on 24.11.2004 for non-compliance of the Order dated 10.11.2004.

Heard learned counsel for the appellant-applicant as well as learned counsel for the respondents.

Learned counsel for the appellant-applicant, by referring

the averments made in the application, has submitted that due to inadvertance and clerical omission, steps for fresh service of notice could not be taken within the prescribed time.

Learned counsel appearing for the other side, has opposed this application and has submitted that the appellant has failed to make out reasonable ground for restoration of the Second Appeal.

Considering the aforesaid rival submissions and having regard to the circumstances as stated in the application and more particularly in view of the circumstances stated in paragraph nos. 3 to 6, the C.M.P. is ordered to be allowed and thereby, the Second Appeal No.137 of 1998, is ordered to be restored to its original file.

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(P.P. Bhatt, J.)

SI